

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN OF TEXAS  
CORPUS CHRISTI DIVISION

ROBERT TORRES,  
*Plaintiff,*

v.

FAMILY DOLLAR STORES OF  
TEXAS, LLC,  
*Defendant.*

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CIVIL ACTION NO. 2:21-cv-00092  
JURY TRIAL DEMANDED

**DEFENDANT FAMILY DOLLAR STORES OF TEXAS, LLC's  
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 and Federal Rule of Civil Procedure 81, Defendant FAMILY DOLLAR STORES OF TEXAS, LLC, ("*Defendant*") hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Defendant FAMILY DOLLAR STORES OF TEXAS, LLC sets forth the following "short and plain statement of the grounds for removal."

**A. THE REMOVED CASE**

1. The removed case is a civil action filed with the County Court at Law No. 1 of Nueces County, Texas, on or about March 16, 2021; styled *Robert Torres v. Family Dollar Stores of Texas, LLC*; Cause No. 2021 CCV-60318-1 (the "State Court Action"). The case arises from an alleged injury allegedly sustained by Plaintiff Robert Torres on April 21, 2019, while in a store located at 1502 S. Staples St., Store #5158, Corpus Christi, Texas.<sup>1</sup>

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<sup>1</sup> Plaintiff's Original Petition and Request for Disclosure (within Exhibit A] to this Notice) at 3, ¶ 5.1.

## **B. DOCUMENTS FROM REMOVED ACTION**

2. Pursuant to 28 U.S.C. 1446(a), Defendant FAMILY DOLLAR STORES OF TEXAS, LLC attaches the following documents to this Notice of Removal as Exhibit A:

- i. an index of documents within Exhibit A;
- ii. the State-Court Action's docket sheet.
- iii. all executed service of process served on Defendant;
- iv. all pleadings asserting causes of action (e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings) served on Defendant; and
- v. all Orders served on Defendant.

## **C. REMOVAL PROCEDURE**

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Corpus Christi Division of the Southern District Court of Texas is the United States district and division embracing Nueces County, Texas, the county in which the State Court Action is pending.

4. Defendant FAMILY DOLLAR STORES OF TEXAS, LLC was served with a copy of Plaintiff's Original Petition and Request for Disclosure, ("Petition") on April 5, 2021, through its registered agent. Thus, this Notice of Removal is filed within the time limits specified in 28 U.S.C. § 1446(b).

5. Defendant FAMILY DOLLAR STORES OF TEXAS, LLC will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this

Notice of Removal with the Clerk of the County Court at Law No. 1 of Nueces County, Texas, where the action is currently pending.

**D. VENUE IS PROPER.**

6. The United States District Court for the Southern District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the County Court at Law No. 1 of Nueces County, Texas, is located within the jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division.

**E. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS.**

7. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

8. As admitted in the Petition, Plaintiff is an individual who resides in Nueces County, Texas.<sup>2</sup>

9. Defendant FAMILY DOLLAR STORES OF TEXAS, LLC is a foreign Limited Liability Company organized and existing under the laws of the Commonwealth of Virginia. FAMILY DOLLAR STORES OF TEXAS, LLC is a citizen of the Commonwealth of Virginia and its principal place of business is located at 500 Volvo Parkway in the City of Chesapeake, Commonwealth of Virginia. As a Limited Liability Company, FAMILY DOLLAR STORES OF TEXAS, LLC is comprised of individual members and one managing member entity – Family Dollar Stores of Ohio, Inc., which has a 100% interest in FAMILY DOLLAR STORES OF

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<sup>2</sup> Plaintiff's Original Petition and Request for Disclosure (within Exhibit A) at 1, ¶ 2.1.

TEXAS, LLC. The business address for all of the individual members and the managing member entity of FAMILY DOLLAR STORES OF TEXAS, LLC is 500 Volvo Parkway, City of Chesapeake, in the Commonwealth of Virginia. Thus, pursuant to 28 U.S.C. § 1332(c)(1) all of the individual members of FAMILY DOLLAR STORES OF TEXAS, LLC, which includes Beth Berman, Sandra L. Boscia, Linde Carley, Jonathan Elder, Bradley Hunter, Michael Matacunas, Deborah Miller, William A. Old, Jr., Gary Philbin, Robert L. Rogers, Thomas E. Schoenheit, Shawnta Totten-Medley and Kevin Wampler, are all citizens of the Commonwealth of Virginia. The identity and titles of the individual members of FAMILY DOLLAR STORES OF TEXAS, LLC are as follows:

Beth Berman	Vice President/Deputy General Counsel / Assistant Secretary
Sandra L. Boscia	Assistant Secretary
Linde Carley	Assistant Secretary
Jonathan Elder	Vice President – Tax
Bradley Hunter	Vice President – Finance
Michael Matacunas	Chief Administrative Officer
Deborah Miller	Vice President
William A. Old, Jr.	Senior Vice President / General Counsel / Secretary
Gary Philbin	President / Chief Operating Officer
Robert L. Rogers	Senior Vice President / Real Estate
Thomas E. Schoenheit	Vice President/Assistant General Counsel/Assistant Secretary
Shawnta Totten-Medley	Vice President / Assistant Secretary
Kevin Wampler	Executive Vice President / Chief Financial Officer

10. Finally, Family Dollar Stores of Ohio, Inc., the sole managing member of Defendant FAMILY DOLLAR STORES OF TEXAS, LLC, is a foreign corporation organized and formed under the laws of the Commonwealth of Virginia and its principal place of business is located at 500 Volvo Parkway in the City of Chesapeake, Commonwealth of Virginia. Thus, pursuant to 28 U.S.C. § 1332(c)(1), Family Dollar Stores of Ohio, Inc. is a citizen of the Commonwealth of Virginia.

11. Also, Plaintiff has pled Defendant FAMILY DOLLAR STORES OF TEXAS, LLC “is a foreign corporation[.]”<sup>3</sup>

12. Because the Plaintiff is a resident and citizen of the State of Texas and Defendant FAMILY DOLLAR STORES OF TEXAS, LLC is a resident and citizen of the Commonwealth of Virginia and has its principal place of business in the Commonwealth of Virginia, complete diversity of citizenship exists between all parties as required by 28 U.S.C. § 1332 for purposes of diversity jurisdiction. Thus, this Court has jurisdiction over the parties based on diversity of citizenship.

13. Thus, the diversity-of-citizenship requirement is satisfied.

14. Because Plaintiff is a resident of the State of Texas and FAMILY DOLLAR STORES OF TEXAS, LLC is not, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

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<sup>3</sup> Plaintiff’s Original Petition and Request for Disclosure (within Exhibit A) at 1, ¶ 2.2.

**F. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED.**

15. Plaintiff alleges in her Petition that Plaintiff seeks damages “over \$1,000,000.00.”<sup>4</sup> Plaintiff seeks to recover damages against Defendant FAMILY DOLLAR STORES OF TEXAS, LLC for: disfigurement and past *and future* medical expenses, physical impairment, loss of earning capacity including lost wages, physical pain, and mental anguish.<sup>5</sup>

16. Thus, based on all of the aforementioned facts, the State Court Action may be removed to this Court by Defendant FAMILY DOLLAR STORES OF TEXAS, LLC in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$ 75,000, exclusive of interest and costs.

**G. FILING OF REMOVAL PAPERS**

17. Pursuant to 28 U.S.C. § 1446(d), FAMILY DOLLAR STORES OF TEXAS, LLC is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the County Court at Law No. 1 of Nueces County, Texas, in which this action was originally commenced.

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<sup>4</sup> Plaintiff’s Original Petition and Request for Disclosure (within Exhibit A) at 4, ¶ 7.3.

<sup>5</sup> *Id.* at 4, ¶ 7.2.

## **H. CONCLUSION**

18. Defendant FAMILY DOLLAR STORES OF TEXAS, LLC hereby removes the above-captioned action from the County Court at Law No. 1 of Nueces County Texas, and requests that further proceedings be conducted in the United States District Court for the Southern District of Texas, Corpus Christi Division, as provided by law.

Respectfully submitted,

**MAYER LLP**

/s/ Kevin Riley

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**ATTORNEYS FOR DEFENDANT  
FAMILY DOLLAR STORES OF TEXAS, LLC**

### **CERTIFICATE OF SERVICE**

I am causing, on May 5, 2021, a true and correct copy of this document to be forwarded to all counsel of record as follows:

Sean Williams  
State Bar No. 24103990  
Justin L. Williams  
State Bar No. 21555800  
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***COUNSEL FOR PLAINTIFF***

☐ E-MAIL  
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☒ E-FILE AND SERVE  
☐ E-SERVICE ONLY  
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REQUESTED

/s/ Kevin P. Riley

Kevin P. Riley